

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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| In re: |) | Chapter 11 |
| |) | |
| PES Holdings, LLC, <i>et al.</i> , ¹ |) | Case No. 19-11626 (LSS) |
| |) | |
| Debtors. |) | (Jointly Administered) |
| |) | |
| PES HOLDINGS, LLC, <i>et al.</i> , |) | Adversary Proceeding |
| |) | |
| Plaintiffs, |) | Case No. 20-50454 (MFW) |
| |) | |
| -and- |) | Re: Docket No. 281 |
| |) | |
| ICBC STANDARD BANK PLC, |) | |
| |) | |
| Intervenor-Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| ALLIANZ GLOBAL RISKS US |) | |
| INSURANCE |) | |
| CO., <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

NOTICE OF APPEAL

Multiple insurers (the “Insurers”)² appeal under 28 U.S.C. § 158(a) from the order [Dkt. No. 281] the (“Order”) entered in the above-captioned adversary proceeding (the “Adversary Proceeding”) on December 15, 2021, which grants the motion for partial summary judgment [Dkt. No. 207] filed by the above-captioned plaintiffs (the “Plaintiffs”) and denies the Insurer’s motion for partial summary judgment [Dkt. No. 204].

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: PES Holdings, LLC (8157); North Yard GP, LLC (5458); North Yard Logistics, L.P. (5952); PES Administrative Services, LLC (3022); PES Energy Inc. (0661); PES Intermediate, LLC (0074); PES Ultimate Holdings, LLC (6061); and Philadelphia Energy Solutions Refining and Marketing LLC (9574). The Debtors’ service address is: 1735 Market Street, Philadelphia, Pennsylvania 19103.

² The Insurers submitting this Notice of Appeal are listed on Annex 1 hereto.

Insurers are filing this Notice of Appeal out of an abundance of caution. This is a “non-core” proceeding in which the Bankruptcy Court has only “related-to” jurisdiction and can enter only a report and recommendation with proposed findings of fact and conclusions of law that will be subject to de novo consideration by the District Court. 28 U.S.C. §157(c)(1). Insurers have expressly withheld their consent to entry of final judgments by the Bankruptcy Court in the Adversary Proceeding.³ And, even if they had so consented, the Order addresses fewer than all claims in the Adversary Proceeding and therefore, under Fed. R. Bankr. P. 7052(b), would be an interlocutory order and not a final judgment. Insurers file this Notice of Appeal solely to preserve their right to appellate review of the Order in the event any party asserts, or any court holds, that the Order is a final judgment subject to immediate appeal by the filing of a notice of appeal within 14 days of entry of the Order pursuant to Fed. R. Bankr. P. 8002(a). Insurers otherwise reserve the right to seek review of the Bankruptcy Court’s determination of the issues it addressed in the Order at the appropriate time following the completion of the upcoming trial to be held in the Bankruptcy Court and its issuance of a report and recommendation with respect to all remaining issues in this Adversary Proceeding under Fed. R. Bankr. P. 7052(a). Insurers request that the District Court hold this Notice of Appeal in abeyance pending entry of any such report and recommendation.

The names of all parties to the order and the names, addresses and telephone numbers of their respective attorneys are as follows:

³ *Answer* [Dkt. No. 20] ¶ 13; *Answer to ICBCS’s Intervenor Complaint* [Dkt. No. 54] ¶ 9; *Letter to Court* [Dkt. No. 151]; *Reply in Further Support of Defendants’ Motion to Strike Plaintiffs’ Conditional Demand for Jury Trial* [Dkt. No. 73] at 6; *Transcript of March 2, 2021 Hearing* [Case No. 19-11626, Dkt. No. 1665] at 7:3-6; 13:17-19; *Notice of Entry of Appearance and Demand for Notices and Papers* [Case No. 19-11626, Dkt. No. 929].

| PARTIES | COUNSEL |
|----------------------------------|---|
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Dated: December 29, 2021

Respectfully submitted,

HOGAN MCDANIEL

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